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CLERK

9/12/2018 8:44 am

U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

The United States of America, . Docket #CR-18-251 (DRH) (AYS)  
Plaintiff, .  
V. . United States Courthouse  
Central Islip, New York  
August 15, 2018  
William Taylor, . 2:56 p.m.  
Defendant. .  
.....

TRANSCRIPT OF GUILTY PLEA  
BEFORE THE HONORABLE ANNE Y. SHIELDS  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For The Plaintiff: Burton T. Ryan, Jr., Esq.  
US Attorney's Office  
610 Federal Plaza  
Central Islip, NY 11722

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1           THE CLERK:   Calling 18-CR-251, United States of  
2   America vs. William Taylor.   Please state your appearances for  
3   the record.

4           MR. RYAN:   For the Government, Your Honor, Burton  
5   Ryan.

6           THE COURT:   Good afternoon.

7           MR. KESTENBAUM:   For the Defendant, Richard  
8   Kestenbaum.   Good afternoon, Your Honor.

9           THE COURT:   Good afternoon.   So I understand we're  
10   here today for -- this is Defendant's initial appearance.   His  
11   agreement to waive indictment and to proceed under an  
12   information and also to take a plea of guilty, right?

13          MR. KESTENBAUM:   That's correct, Your Honor.

14          THE COURT:   Okay.   First of all, I do have an order  
15   of referral from Judge Hurley.   Judge Hurley is the district  
16   judge in this case.   At the close of these proceedings, I'll  
17   be making recommendations to him as to whether or not to  
18   accept the plea.   I see Mr. Taylor, you've signed that, right?

19          MR. TAYLOR:   Yes.

20          THE COURT:   All right.   I will sign that as well and  
21   then we can go on.   So Mr. Taylor, you're going to be doing a  
22   lot of talking today, so make sure that you're near the mike  
23   and the light is on because everything here is --

24          MR. TAYLOR:   Okay.

25          THE COURT:   Everything is recorded.   Even though you

1 don't see a Court reporter, everything's --

2 MR. TAYLOR: Okay.

3 THE COURT: It's on a recording, okay?

4 MR. TAYLOR: Yes.

5 THE COURT: Okay. So some things I say today might  
6 sound a little bit repetitive, but it's important that you pay  
7 close attention to everything that's said. All right?

8 MR. TAYLOR: All right.

9 THE COURT: Okay. So first of all, this is your  
10 initial appearance in Court. Have you had a chance to discuss  
11 all of the proceedings today with your lawyer?

12 MR. TAYLOR: Yes.

13 THE COURT: Okay. So I want to advise you first of  
14 rights you have under the 5th and 6th Amendment to the  
15 Constitution. Under the 6th Amendment, you have a right to  
16 counsel. That's your lawyer. He's here with you today. You  
17 understand that?

18 MR. TAYLOR: Yes.

19 THE COURT: And under the 5th Amendment you have the  
20 right to not to make any statements, or to stop making  
21 statements at any time. Do you understand those rights as  
22 well?

23 MR. TAYLOR: Yes.

24 THE COURT: Okay. So moving on to the waiver of  
25 indictment. The Government moves to proceed in this case

1 under Criminal Procedure Rule 7(b) and to move forward with  
2 this case against you by way of a document called an  
3 Information instead of an indictment. If you agree to allow  
4 the Government to proceed in this matter, you will be giving  
5 up certain rights that I'm going to advise you about and I'll  
6 ask you whether you will understand those rights.

7 The first thing I want to do right now is to swear you  
8 in. So if you could just stand up, raise your right hand,  
9 have my deputy swear you in, and just answer yes.

10 WILLIAM TAYLOR, DEFENDANT, SWORN

11 THE COURT: Okay. You can be seated. All right, so  
12 first I want to explain to you your right to be indicted so I  
13 can be sure you understand what a waiver of indictment means.  
14 So when the Government prosecutes somebody for an offense  
15 that's punishable by a term of imprisonment that exceeds one  
16 year, they must do so by indicting that person. In fact, you  
17 have a constitutional right to be charged by indictment issued  
18 by a Grand Jury. That means unless you waive indictment, you  
19 cannot be charged with a felony unless a Grand Jury finds  
20 there's probable cause to believe that a crime was committed  
21 and you committed it.

22 If you don't waive indictment, the Government would have  
23 to present its case to a Grand Jury if it wanted to proceed.  
24 If that were to happen, the case would be presented to a group  
25 of your fellow citizens. They would sit on the Grand Jury to

1     determine probable cause. Upon that presentation, the Grand  
2     Jury could decide may or -- to indict you or not to indict  
3     you. However, you can waive indictment and allow the  
4     Government to proceed against you by way of a paper called an  
5     Information.

6             If you waive indictment today, the Government can proceed  
7     against you in this way. So first of all, Mr. Taylor, let me  
8     ask you, do you understand what I've just explained to you  
9     about the Grand Jury process?

10            MR. TAYLOR: Yes, I do.

11            THE COURT: Okay. And have you discussed waiving  
12     your right to indictment by a Grand Jury with your lawyer?

13            MR. TAYLOR: Yes, I have.

14            THE COURT: Has anybody made any threat or promise  
15     to induce you to waive indictment?

16            MR. TAYLOR: No.

17            THE COURT: Do you wish to waive your right to  
18     indictment by a Grand Jury?

19            MR. TAYLOR: Yes.

20            THE COURT: Let me ask your lawyer. Do you know of  
21     any reason why your client should not waive indictment?

22            MR. KESTENBAUM: No, Your Honor.

23            THE COURT: Okay. So based upon what I've heard, I  
24     find the Defendant has knowingly waived his right to  
25     indictment and to allow the Government to proceed by way of

1 Information. I'll therefore recommend that the district judge  
2 accept the waiver of indictment. I do see the paper waiving  
3 it. I see it's been signed. I will sign that as well.

4 Okay. Turning to the guilty plea.

5 BY THE COURT:

6 Q. Mr. Taylor, now you're going to be -- you've asked to  
7 plead guilty to an Information that charges you with failure  
8 to collect and pay over FICA taxes that were owed to the IRS,  
9 knowing that those taxes were due and owing. You're charged  
10 in five separate counts representing five separate time  
11 periods.

12 MR. KESTENBAUM: Judge, the Defendant is going to  
13 plead guilty to Count 5.

14 THE COURT: Just Count 5?

15 MR. KESTENBAUM: Just Count 5 is sufficient.

16 THE COURT: Okay, that's fine. All right. Mr.  
17 Taylor, before I came out here today, you were asked to review  
18 a plea form. Did you review that form with your lawyer?

19 MR. TAYLOR: Yes.

20 THE COURT: And did you sign that form?

21 MR. TAYLOR: Yes.

22 THE COURT: Okay. So what I'm going to do is I'm  
23 going to go through that form asking you the same questions on  
24 the form, okay?

25 MR. TAYLOR: Okay.

1                   THE COURT: All right. I want to remind you that  
2 you are still under oath, okay? So Mr. Taylor, before  
3 accepting your plea, there's questions I have to ask to ensure  
4 that it is a valid plea. If you don't understand any  
5 question, just ask me to reword it and I'll be happy to do so,  
6 all right?

7                   MR. TAYLOR: Okay, yes.

8                                   DIRECT EXAMINATION

9 BY THE COURT:

10 Q. Okay. State your full name, please.

11 A. William Henry Taylor, Jr.

12 Q. And how old are you?

13 A. Sixty.

14 Q. Are you a citizen of the United States?

15 A. Yes, I am.

16 Q. Okay. So we answered the questions that need not have  
17 been answered, so I'm just going to cross those out. Those  
18 are for non-citizens. Moving on. What's the highest  
19 schooling or education that you had?

20 A. High school.

21 Q. Are you presently or have you recently been under the care  
22 of a physician or a psychiatrist?

23 A. Yes.

24 Q. Okay. So explain what that care is to me.

25 A. I see a Dr. Ghandi (phonetic) in Huntington --



1 Q. Uh-huh.

2 A. -- once or twice a month just to discuss things and make  
3 sure everything is good.

4 Q. What type of a doctor is he?

5 A. He's a psychiatrist.

6 Q. Okay. So you're in therapy a couple times a month.

7 A. Therapy, yes.

8 Q. Okay. Anything else?

9 A. I have epilepsy, so I go see my regular doctor and I'm on  
10 medication for that also.

11 Q. Okay. So have either of those affected your ability to  
12 understand the proceedings here today?

13 A. No.

14 Q. Okay. In the past 24 hours, have you taken any narcotic  
15 drug, medicine, or pills, or drunk any alcohol beverage?

16 A. Just my medication for --

17 Q. Just the medication for epilepsy that we discussed.

18 A. Yes.

19 Q. Nothing else?

20 A. And I take Abilify also.

21 Q. Okay. And that -- the Abilify, does that in any way  
22 affect your ability to understand what's happening?

23 A. No, it doesn't. No.

24 Q. Okay. Have you ever been hospitalized or treated for  
25 narcotic addiction?

1 A. No.

2 Q. Is your mind clear?

3 A. Yes.

4 Q. You understand what's going on here?

5 A. Absolutely do.

6 THE COURT: Okay. Turning to your lawyer, have you  
7 discussed what's going on here with your client?

8 MR. KESTENBAUM: Yes, Your Honor.

9 THE COURT: Do you believe that he understands the  
10 rights he will be waiving by pleading guilty?

11 MR. KESTENBAUM: Yes, Your Honor.

12 THE COURT: Do you believe he's capable of  
13 understanding the nature of these proceedings?

14 MR. KESTENBAUM: Yes.

15 THE COURT: Do you have any doubt at all as to your  
16 client's competency to plead at this time?

17 MR. KESTENBAUM: No, Your Honor.

18 THE COURT: Okay. Turning back to Mr. Taylor.

19 BY THE COURT:

20 Q. You have a right to plead not guilty. Do you understand  
21 that?

22 A. Yes, I do.

23 Q. If you plead not guilty, under the Constitution and laws  
24 of the United States, you're entitled to a speedy and public  
25 trial by jury with the assistance of counsel on the charges.

1 Do you understand that?

2 A. Yes.

3 Q. At the trial, you would be presumed to be innocent and the  
4 Government would have to overcome that presumption and prove  
5 you guilty by competent evidence beyond a reasonable doubt and  
6 you would not have to prove that you're innocent. If the  
7 Government failed, the jury would have the duty to find you  
8 not guilty. Do you understand that?

9 A. Yes.

10 Q. In the course of a trial, witnesses for the Government  
11 would have to come to the Court. They'd have to testify in  
12 your presence and your lawyer would have the right to cross  
13 examine those witnesses to object to evidence offered by the  
14 Government and to offer evidence on your behalf. Do you  
15 understand that?

16 A. Yes, I do.

17 Q. At the trial, while you would have the right to testify,  
18 if you chose to do so, you could not be required to testify.  
19 Under the Constitution of the United States, you can't be  
20 compelled to incriminate yourself. If you decided not to  
21 testify, the Court would instruct the jury they could not hold  
22 that against you. Do you understand that?

23 A. Yes.

24 Q. If you plead guilty and the district judge accepts that  
25 plea, you will be giving up your constitutional rights to a

1 trial and all of the other rights I have just discussed.  
2 There will be no further trial of any kind and no right to  
3 appeal or collaterally attack at any time whether you are  
4 guilty or not. A judgment of guilty will be entered on the  
5 basis of your guilty plea, which judgment can never be  
6 challenged. You may have the right to appeal, however, with  
7 respect to your sentence. Do you understand that?

8 A. Yes.

9 Q. If you plead guilty, I have to ask you questions about  
10 what you did to satisfy myself that you are indeed guilty of  
11 the charge to which you seek to plea, and you'll have to  
12 answer any questions, and you will have to acknowledge your  
13 guilt. Best, you'll be giving up your right not to  
14 incriminate yourself. Do you understand that?

15 A. Yes.

16 Q. Are you willing to give up your right to a trial and the  
17 other rights I have just discussed?

18 A. Yes.

19 THE COURT: Okay. Turning to the Government, I know  
20 that there is a plea agreement in this case. Can you just  
21 tell me the important points of that agreement?

22 MR. RYAN: Judge, the Defendant by the agreement has  
23 agreed to waive any appeal or challenge to the conviction and  
24 sentence if he receives 27 months or below. It also contains  
25 a requirement of restitution for all the quarters of 2011 and

1 2012, which is restitution above and beyond the count of the  
2 plea.

3 THE COURT: Understood. So that's the amounts --  
4 all of the amounts due.

5 MR. RYAN: That's all of those amounts. And that's  
6 included -- the procedure for the restitution is laid out in  
7 Attachment B to the agreement.

8 THE COURT: Okay. All right. Let me ask you to  
9 list the elements of the count to which he is pleading guilty.

10 MR. RYAN: Judge, it's knowingly and willfully  
11 failed to collect, account for, and hand over payroll taxes to  
12 the Internal Revenue Service.

13 THE COURT: Okay. Turning back to Mr. Taylor.

14 BY THE COURT:

15 Q. Are you aware of the elements of the crime to which you  
16 are charged and ask do you wish to plead guilty?

17 A. Yes.

18 Q. Okay. Have you discussed that charge with your lawyer?

19 A. Yes.

20 Q. Do you understand the charge?

21 A. Yes.

22 Q. Do you understand what the maximum sentence and fine that  
23 might be imposed on the charge to which you're seeking to  
24 plead guilty?

25 A. Yes.

1 Q. Okay. So the maximum possible penalty under Count 1 is  
2 five years in jail, plus a fine of \$10,000. Do you understand  
3 that?

4 A. Yes.

5 Q. Do you realize there's also a \$100 special assessment for  
6 the count?

7 A. Yes.

8 Q. And do you realize the Court can also order restitution?

9 A. Yes.

10 Q. Do you realize that if any jail time is imposed, there  
11 would also be a period of three years of supervised release  
12 that must be imposed? Is that mandatory?

13 MR. RYAN: Yes, Judge.

14 BY THE COURT:

15 Q. Okay. Do you understand that?

16 A. Yes.

17 Q. Have you discussed the sentencing guidelines with your  
18 lawyer?

19 A. Yes.

20 Q. Okay. Do you understand that those guidelines are not  
21 mandatory but in sentencing, the Court is required to consider  
22 the guideline range along with statutory factors listed in 18  
23 USC 3553(a), which I'll discuss with you, and that the Court  
24 will also consider the nature and circumstances of the offense  
25 and your criminal history, if any, and your characteristics.

1 Do you understand that?

2 A. Yes, I do.

3 Q. Okay. I'm going to read you what those statutory factors  
4 are that the Court considers. The Court must impose a  
5 sentence sufficient, but not greater than necessary, to  
6 reflect the seriousness of the offense, to promote respect for  
7 the law, to provide just punishment for the offense, to afford  
8 deterrence as to other criminal conduct, to protect the public  
9 from further crimes by you, and to provide you with needed  
10 educational or vocational training, medical care, or other  
11 correctional treatment in the most effective manner.

12 At sentencing, the Court must also consider your  
13 cooperation, if any, if the Government submits a 5(k)(1)  
14 letter. Has your lawyer explained those factors to you?

15 A. Yes.

16 Q. Do you realize that this sentence is more severe than what  
17 you might expect, you'd still be bound by your guilty plea and  
18 you won't be permitted to withdraw it? Do you understand  
19 that?

20 A. Yes.

21 Q. Do you have any questions at all that you want to ask me  
22 about the charge, your rights, or anything else relating to  
23 this matter?

24 A. No, Your Honor.

25 Q. Okay. Are you ready to plead?

1 A. Yes, I am.

2 THE COURT: Okay. Turning to your lawyer, do you  
3 know of any legal reason why your client should not plead  
4 guilty?

5 MR. KESTENBAUM: No, Your Honor.

6 THE COURT: Back to Mr. Taylor.

7 BY THE COURT:

8 Q. Are you satisfied with your legal representation up to  
9 this point?

10 A. Yes, I am.

11 Q. Do you think your lawyer has done a good job for you?

12 A. Yes.

13 Q. What is your plea? Guilty or not guilty?

14 A. Guilty.

15 Q. Are you making this plea of guilty voluntarily and of your  
16 own free will?

17 A. Yes, I am.

18 Q. Has anybody threatened you or forced you to plead guilty?

19 A. No.

20 Q. Other than the agreement with the Government, that plea  
21 agreement which you referred to and that you signed, has  
22 anybody made any promises causing you to plead guilty?

23 A. No.

24 Q. Has anybody made any promise to you as to what your exact  
25 sentence will be?



1 A. No.

2 Q. Okay. So what I want you to do is to describe to me in  
3 your own words what you did in connection with the acts  
4 charged in Count 1 of the Information to which you're pleading  
5 guilty.

6 MR. KESTENBAUM: Count 5, Judge.

7 THE COURT: Count 5, okay. It's one count, but it's  
8 number 5.

9 MR. KESTENBAUM: Correct.

10 BY THE COURT:

11 Q. All right, go ahead, sir.

12 A. Cashed payroll checks and paid the workers cash.

13 Q. Did you own a business?

14 A. Yes.

15 Q. Okay. What was the name of that business and where was it  
16 located?

17 A. Four Seasons Roofing in Farmingdale, New York.

18 Q. Okay. Okay. And just to be clear, just tell me again  
19 what you did when you were the owner of that business.

20 A. Estimated, set up jobs --

21 Q. No, with respect to the payment of wages and the payment  
22 of FICA taxes.

23 A. I paid the workers with cash.

24 Q. Okay.

25 A. And didn't turn over the payroll tax.

The Court - Finding

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1 Q. Okay. And you knew that.

2 A. Yes.

3 Q. Okay.

4 THE COURT: I've asked the Government to outline  
5 what proof you would have put forward at trial.

6 MR. RYAN: Judge, the Government's evidence would be  
7 the Defendant, while the owner and operator of Four Seasons  
8 Roofing, diverted income checks to be received from the  
9 company to Kayla Commercial Check Cashing in Farmingdale, New  
10 York, cashed those checks, did not report that -- the receipt  
11 of those checks to his accountant, and then used the cash  
12 which was now unreported to the IRS to pay for expenses,  
13 including the payroll that he used to -- of his roofers, which  
14 was paid in cash and not reported to the IRS, nor any payroll  
15 taxes collected or handed over.

16 THE COURT: Okay, thank you. All right, well based  
17 upon the information given to me, I find that the Defendant is  
18 acting voluntarily, that he fully understands his rights, and  
19 that he understands the consequences of his plea. I also find  
20 there's a factual basis for the plea. I'll therefore  
21 recommend that the District Judge accept the plea of guilty to  
22 Count 5 of the Information.

23 All right, turning to the issue of bond, let me hear from  
24 the Government.

25 MR. RYAN: Judge, we're going to adopt the

1 recommendations of Pretrial Services. We'd ask the Defendant  
2 be released under personal recognizance bond. That he be --  
3 he report to Pretrial Services as they direct, that his travel  
4 be restricted to the Eastern and Southern Districts of New  
5 York, pending the outcome of the case to be subject to random  
6 home and/or employment visits. His passport was surrendered  
7 today to Pretrial Services. And that he be -- Pretrial  
8 Services request that he be subject to mental health  
9 evaluation and treatment as they deem necessary.

10 THE COURT: Let me ask Defense counsel, have you  
11 gone over those conditions of release with your client?

12 MR. KESTENBAUM: Yes, Your Honor.

13 THE COURT: Okay. Mr. Taylor, did you understand  
14 the conditions of your release on bond?

15 MR. TAYLOR: Yes.

16 THE COURT: Okay. So your lawyer has explained to  
17 you exactly what you have to do. You've given over your  
18 passport. I want to point out to you the travel restriction.  
19 So if you have any question as to whether or not you can  
20 travel someplace and you're not sure whether you're in the  
21 Southern or Eastern Districts of New York, ask.

22 MR. TAYLOR: Okay.

23 THE COURT: Don't assume that something is okay  
24 because it might not be and then you'll be in big trouble.

25 MR. TAYLOR: I understand.

1           THE COURT: So any question at all, you just ask  
2 first. If for any reason you need to travel somewhere else,  
3 you just ask first. And Pretrial may say, you know, that's  
4 fine. Check in with us. But always check in with them before  
5 you do anything.

6           MR. TAYLOR: I understand, Your Honor.

7           THE COURT: Okay. Very good. So I'm going to sign  
8 that bond and that's a personal recognizance bond. Defendant  
9 can only travel within the -- and I'm just going to write EDNY  
10 and SDNY, all right? Surrender passports, which is already  
11 done. Supervision of Pretrial. By supervision of Pretrial,  
12 you understand that they -- Pretrial can come to your house,  
13 to your place of employment. They don't need to give you  
14 notice of that. Do you understand that?

15          MR. TAYLOR: I understand.

16          THE COURT: And if they think you need to have  
17 mental health counseling or evaluation, then you'll have to  
18 comply with that as well, okay?

19          MR. TAYLOR: I understand.

20          THE COURT: And I'm putting report as directed by  
21 Pretrial, so if they want you to come in monthly, whatever  
22 they want, okay?

23          MR. TAYLOR: Okay.

24          THE COURT: And the evaluation for anything at all  
25 is by -- subject to Pretrial. It doesn't mean that I'm saying

1 you have to do it. It means if Pretrial tells you you have to  
2 do it, then you have to do it. Okay?

3 MR. TAYLOR: I understand.

4 THE COURT: All right. I'm going to give the bond  
5 to you and your counsel to look over, make sure you  
6 understand, then you can sign it.

7 (Pause in the proceedings.)

8 THE COURT: Okay, Mr. Taylor, do you have any  
9 questions at all or any questions about the bond?

10 MR. TAYLOR: No, Your Honor.

11 THE COURT: Okay. All right. I'm going to sign  
12 that. Anybody need anything else on this one?

13 MR. RYAN: I believe that completes the business  
14 before the Court, Judge.

15 THE COURT: Thank you. Anything from the Defense?

16 MR. KESTENBAUM: Nothing, Your Honor.

17 THE COURT: Okay. Thank you all very much.

18 MR. KESTENBAUM: Thank you.

19 (Court adjourned)

20 CERTIFICATION  
21 I certify that the foregoing is a correct transcript from the  
22 electronic sound recording of the proceedings in the above-  
23 entitled matter.

24

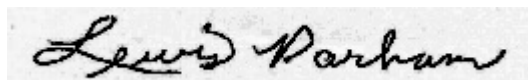
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9/10/18

Signature of Transcriber

Date